

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Expedited Package Services 9
(MC2018-6 and CP2018-11)
Negotiated Service Agreement

Docket No. CP2018-56

PUBLIC REPRESENTATIVE COMMENTS ON
NOTICE OF UNITED STATES POSTAL SERVICE OF FILING
A FUNCTIONALLY EQUIVALENT GLOBAL EXPEDITED PACKAGE SERVICES 9
NEGOTIATED SERVICE AGREEMENT
(November 22, 2017)

INTRODUCTION

The Public Representative hereby provides comments pursuant to the Commission's notice initiating this docket.¹ In that notice, the Commission established the above-referenced docket to receive comments from interested persons, including the undersigned Public Representative, on the Postal Service's Notice of Filing a Functionally Equivalent Global Expedited Package Services 9 (GEPS 9) Negotiated Service Agreement.² The Notice includes a public (redacted) version of the GEPS 9 contract (Contract), a Certification of Compliance with 39 U.S.C. § 3633(a) as required by 39 C.F.R. § 3015.5(c)(2), and a redacted copy of Governors' Decision No. 11-6 as attachments along with redacted supporting financial models filed separately as Excel files. Unredacted versions of these documents were filed separately under seal.

Prices and classifications "not of general applicability" for GEPS agreements were previously established by Governors' Decision No. 08-7.³ In Order No. 86, the

¹ Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, November 20, 2017.

² Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 9 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, November 17, 2017 (Notice).

³ See Docket No. CP2008-5, United States Postal Service Notice of Filing Redacted Copy of Governors' Decision No. 08-7, May 6, 2008 (Governors' Decision No. 08-7). A redacted copy of the Governors' Decision was also filed as Attachment 3 to the Notice. An unredacted copy of the Governors'

Commission established GEPS as a product on the competitive product list.⁴ In Order No. 4199, the Commission approved the Postal Service's request to add the GEPS 9 product to the competitive product list and designated a baseline agreement used to determine the functional equivalence of subsequent agreements that the Postal Service requests to add to the GEPS 9 product.⁵ GEPS 9 contracts are agreements negotiated with small- or medium-sized businesses that mail products directly to foreign destinations using Priority Mail Express International, Priority Mail International, or both. Notice at 4.

The Postal Service will establish the effective date of this agreement as soon as the Commission completes its review. *Id.* at 3. The Contract is expected to remain in effect for one calendar year from the effective date, subject to early termination provisions. *Id.*

The Postal Service states that the Contract is functionally equivalent in all pertinent respects to the baseline agreement and is in compliance with the requirements set forth in 39 U.S.C. § 3633(a). *Id.* at 4. The Postal Service therefore requests that the Contract be added to the GEPS 9 product. *Id.* at 6.

COMMENTS

The Public Representative has reviewed the Postal Service's Notice, the Contract, and the supporting financial models that were filed under seal. Based upon that review, the Public Representative concludes that the Contract is functionally equivalent to the baseline agreement. In addition, it appears that the negotiated prices offered in the Contract should generate sufficient revenues to cover costs.

Functional Equivalence. The Postal Service asserts that the Contract shares similar cost and market characteristics as those of the contract that is the subject of Docket No. CP2018-11, which serves as the baseline agreement for the GEPS 9

Decision was filed previously under seal. Docket No. CP2008-4, Notice of United States Postal Service of Governors' Decision Establishing Prices and Classifications for Global Expedited Package Service Contracts, May 20, 2008.

⁴ Docket No. CP2008-5, Order Concerning Global Expedited Package Services Contracts, June 27, 2008 (Order No. 86).

⁵ See Docket Nos. MC2018-6 and CP2018-11. Order Adding GEPS 9 to the Competitive Product List and Designating Baseline Agreement, November 1, 2017 (Order No. 4199).

product grouping. *Id.* at 3-4. However, the Postal Service identifies differences between the Contract and the GEPS 9 baseline agreement. *Id.* at 5. Most of these differences are specific to the customer (e.g., the customer's name and address). Other differences between the Contract and the GEPS 9 baseline agreement include revisions to paragraphs; revisions to numerous existing articles, as well as deletion, addition and renumbering of some articles; and revisions to Annexes 1, 2, and 3. *Id.* The Postal Service maintains that these differences do not affect either the fundamental service the Postal Service is offering or the fundamental structure of the contract. *Id.*

The Public Representative agrees that the differences between this Contract and the baseline agreement do not fundamentally alter the services provided by the Postal Service under the Contract. Therefore, the Contract is functionally equivalent to the baseline agreement and qualifies for inclusion within the GEPS 9 product.

Pricing Considerations. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices (1) must not result in the subsidization of competitive products by market dominant products; (2) must ensure that each competitive product will cover its attributable costs; and (3) must ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service.

As presented, the Postal Service's financial models do not directly address whether the addition of the Contract to the GEPS 9 product will result in the product as a whole covering costs as required by 39 U.S.C. § 3633(a)(2). However, the Postal Service's financial models indicate that the negotiated rates in the Contract will generate sufficient revenue to cover its attributable costs. Therefore, the addition of the Contract to the GEPS 9 product will not cause the product's cost coverage to fall below 100 percent, assuming the product currently covers its attributable costs. Under this assumption, the addition of the Contract should allow the GEPS 9 product to continue to comply with 39 U.S.C. § 3633(a)(2) and should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Moreover, the addition of the Contract to the GEPS 9 product should improve the likelihood that competitive products as a whole contribute an appropriate share to the Postal Service's institutional costs as required by 39 U.S.C. § 3633(a)(3).

The Commission will have an opportunity to review the financial results for the Contract in a future ACD Report for compliance with 39 U.S.C. 3633(a).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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